



Council Tree Communications, Inc.

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April 11, 2006

BY ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Room TW-B204
Washington, DC 20554

Re: Written *Ex Parte* Presentation - Supplement
WT Docket No. 05-211

Dear Ms. Dortch:

On behalf of Council Tree Communications, Inc. ("Council Tree"), I am writing to supplement Council Tree's April 5, 2006 notice of oral and written *ex parte* presentations in the referenced proceeding. Inadvertently excluded from that April 5, 2006 notice was the last page of the *ex parte* which is now included along with the materials previously submitted, a copy of which I provided to Dana Shaffer in the office of Commissioner Tate.

One copy of this letter and Council Tree's written presentation is being submitted electronically pursuant to Sections 1.1206(b)(1) and (b)(2) of the Commission's Rules.

Sincerely,

/s/ George T. Laub

George T. Laub

Enclosure



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April 5, 2006

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Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
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Washington, DC 20554

Re: Oral and Written *Ex Parte* Presentations
WT Docket No. 05-211

Dear Ms. Dortch:

Council Tree Communications, Inc. ("Council Tree") hereby gives notice of an oral and written *ex parte* presentations in the referenced proceeding.

The oral presentations were made by me to John Giusti and Bruce Gottlieb in the office of Commissioner Copps and Dana Shaffer in the office of Commissioner Tate and included data and arguments already reflected in Council Tree's written filings in the referenced proceeding. In addition, I opposed any extension of the Commission's new rule that would have the effect of prohibiting the award of designated entity ("DE") preferences to any DE that has material investment from any company with revenues exceeding \$125 million, as compared to wireless revenues exceeding \$5 billion as discussed in the Commission's *Further Notice of Proposed Rulemaking*. I explained that such an approach would cripple DEs by eliminating their logical sources of capital and industry experience. A \$5 billion wireless revenues threshold narrowly addresses the only problem set forth on the record of this proceeding. I indicated that a materially lower threshold (such as \$125 million) would be a reversal of longstanding Commission policy, would strand DEs preparing to bid in Auction 66, and would invite auction-threatening litigation.

The written presentation was in the form of the enclosed memorandum, which I provided to Dana Shaffer in the office of Commissioner Tate.

Marlene H. Dortch
April 5, 2006
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One copy of this letter and Council Tree's written presentation is being submitted electronically pursuant to Sections 1.1206(b)(1) and (b)(2) of the Commission's Rules.

Sincerely,

/s/ George T. Laub

George T. Laub

Enclosure

1. Who Should be Prohibited from Investing in DEs?

(a) \$5 billion of wireless revenues (broad support in the proceeding)

- Pros: Narrowly addresses problems clearly identified in the record

(b) \$5 billion of total *communications* revenues

- Pros: Treats all large communications companies equally
- Cons: See (**) below; makes DEs less viable with fewer investors

(c) \$125 million of revenues

- Cons: See (**) below; cripples DEs / kills competition to national carriers
 - Eliminates rural and flat rate wireless carriers as DE investors
 - Counter to 12 years of Commission precedent
 - Well beyond the scope of the proceeding

2. Where Should They Be Prohibited (i.e., cannot invest in a DE “in-region”)?

(a) In-region defined by CMRS wireless license overlap

- Pros: Feasible if limited to companies > \$5 billion of revenues
- Cons: Cripples DEs / kills competition if applied to smaller wireless carriers
 - See (**) below
 - Mid-sized rural and flat rate carriers are spectrum constrained in-region
- Alternative: In-region is area where investor has > 30 MHz of CMRS spectrum

(b) In-region defined by overlap of any communications service license

- Pros: Feasible if limited to companies > \$5 billion in revenues
- Cons: Cripples DEs / kills competition if applied broadly – see (**) below
 - How possibly to define in-region? Broadcasters, paging companies, etc?
- Alternative: In-region is area where investor has > 30 MHz of CMRS spectrum
 - Along with broader CMRS attribution rules

3. What Activity Should Be Limited with Respect to “Prohibited” DE Investors?

(a) Limit the amount of financial investment in a DE

(b) Limit any material relationship with a DE

Pros: Feasible as applied to national wireless carriers – in-region only

- Out-of-region - rely on existing controlling interest standard

Cons: If broadly applied, cripples DEs by shutting off access to capital from key investors

- See also (**) below

() *Key problems common to overbroad prohibitions on who can invest (and how) in DEs***

- (a) The record clearly reveals a problem with national wireless carriers, *not* others
- (b) Severely undermines DE access to capital from the most logical sources
 - Particularly rural and flat rate carriers who have been important DE investors
 - Industry investments are key to DEs when raising debt and equity capital from others sources (e.g., private equity investors)
- (c) Leads to litigation / auction delay
- (d) Hobbles those trying to compete with national wireless carriers
- (e) Ironically, only reinforces national carrier dominance

Alaska Native Broadband 1

Alaska Native Broadband-1 (ANB-1) is true a DE success story, formed in 2004 to develop and win licenses in FCC Auction No. 58

► Background

- Formed and controlled by Arctic Slope Regional Corporation (“ASRC”) — 25% economic ownership by ASRC and 75% by Leap Wireless
- Currently building out licenses using the unlimited local usage business model

► Properties acquired

- \$68 million of licenses
- 9 licenses covering 10 million POPs
- Austin, San Antonio, Cincinnati, Louisville, Lexington and others

► Current status

- Licenses granted 9/6/05
- Currently launching markets
 - El Paso / Las Cruces (2/06)
 - Colorado Springs (1/06)
- Remainder of markets expected by Summer 2006
- ANB-1’s first launch markets, El Paso and Colorado Springs have achieved 2.8% and 1.3% penetration
 - More than 30,000 subscribers on a combined basis

